As noted above, this adherence to the concept of localism continued through the *Programming Statement, supra*, and presumably remains an important consideration to this day.[24]

> As noted above, localism has been, and continues to be, and important element of service in the public interest. . . . What is important is that broadcasters present programming relevant to public issues both of the community at large or, in the appropriate circumstances, relevant primarily to the more specialized interests of its own listenership.[25]
>
> It would be inconsistent with the exercise of good faith judgment for a broadcasters to be "walled off" from its community. Rather, broadcasters should maintain contact with their community on a personal basis. . . .[26]

The Commission action replaced more formal and detailed procedures with what it viewed as a more efficient means of accomplishing the same community service objectives. Radio renewal applicants would thereafter be required only to maintain in its public file a listing of five to ten issues responded to with programming together with examples of such programming offered. That list was to:

> . . . in narrative form, contain a brief description of from five to ten issues to which the station paid particular attention with programming, together with a brief description of how the licensee determined each issue to be one facing his community. . . . We continue to be concerned that stations serve their local communities.[27]

The Court of Appeals was concerned whether the annual list proposed in the new regulatory scheme for radio proposed in the *Order* could provide a sufficient gauge

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24 At ¶ 58.

25 At ¶ 66.

26 At ¶ 69.

27 At ¶ 71.

of a station's overall public service performance. In response, the Commission issued a second *Order*[28] lifting the limit on listing 10 issues and requiring that lists be prepared and made available quarterly rather than annually.

Similar concerns about the preservation of community service were expressed by the Commission in deregulating television in 1984.[29] The Commission eliminated programming guidelines, but directed that:

> . . . television broadcasters would operate under a general obligation to address issues of concern to their communities.[30]

The new rules required a quarterly issues/programs list be placed in a station's public inspection file, containing, in narrative form, a brief description of at least five to ten issues to which the licensee gave particular attention with programming in the past three months with a statement of how each issue was treated. The Commission sprinkled its *Order* with admonitions that the licensee's responsibility to the community remained in force, despite expanded flexibility in fulfilling that responsibility:

> [W]e are not eliminating a licensee's obligation to provide programming that meets the needs of its community.[31]
>
> As we noted in the radio deregulation proceeding, the Commission's involvement in the area of non-entertainment programming has always been driven by a concern that issues of importance to the community will be discovered and addressed in programming so that

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28 *Second Report and Order* in BC Docket 79-219 (*Deregulation of Radio*), 49 Fed. Reg. 19019 (May 4, 1984).

29 *Report and Order,* In the Matter of The Revision of Programming and Commercialization Policies, Ascertainment Requirements, and Program Log Requirements for Commercial Television Stations (MM Docket No. 83-670), Adopted June 27, 1984.

30 At ¶ 6.

31 At ¶ 30.

> the informed public opinion, necessary in a functioning democracy, will be possible.[32]
>
> In general, the basic renewal standard will continue to consist of an obligation that a licensee, during its prior license term addressed community issues with responsible programming and complied with all other legal requirements.[33]
>
> The basic responsibility to contribute to the overall discussion of issues confronting the community is a non-delegable duty for which each licensee will be held individually accountable.[34]
>
> Elimination of the long form audit does not alter the substantive obligation of commercial television licensees to serve the public interest.[35]

"Must-Carry" Rules

The Commission explicitly considered the maintenance of local service in anticipating the impact of cable television. One concern was that the importation of distant signals might fragment the audience of local stations since local stations would then be required to compete with "outside" signals not originally anticipated in the Commission's allocation scheme. There was also concern about cable subscribers removing antennas, thereby placing broadcast stations not carried by cable at a marked disadvantage.

The Commission attempted to integrate cable into its television scheme in a manner that would protect local stations. One tool to protect local stations was the 1972 "must-carry" rules, which ensured that cable subscribers would still receive local (within a 60-mile radius) broadcast stations and that those stations would have equal

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32 At ¶ 31.

33 At ¶ 36.

34 At ¶ 37.

35 At ¶ 83.

signal quality. Requiring cable systems to retransmit signals of local televisi stations would protect local broadcasters, especially UHF stations, whose signal quality was noticeably inferior in some circumstances.

In its 1986 *Report and Order*,[36] the Commission adopted interim must-carry rules which required cable systems to offer subscribers input selector switches. In the *Order*, the Commission cited to the analysis it relied upon in developing cable policy:

> These additional signals compete with the local stations for a share of the available audience. If subscribers view distant signals to the exclusion of local stations, the audience will become fragmented and the local stations will lose viewers. As the audience a station can deliver decreases, advertisers will demand lower prices per unit of air time, and station revenues and profits will decline. Decreased revenues and profits will cause the local station to reduce its program efforts, and thereby to reduce its service to the public.[37]

It went on to cite its rationale for an earlier action:

> [I]t would be contrary to the public interest to defer action until a serious loss of existing and potential service had occurred, or until existing service had been significantly impaired — i.e., to wait 'until the bodies pile up' before conceding that a problem exists.

In 1989 Senate hearings on reinstating mandatory cable carriage of local broadcast signals, the importance of local broadcasting was driven home in a statement by Senator Ernest Hollings (D-SC):

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[36] *Report and Order*, In the Matter of Amendment of Part. 76 of the Commission's Rules Concerning Carriage of Television Broadcast Signals by Cable Television Systems (MM Docket No. 85-349), Adopted August 7, 1986.

[37] At ¶ 9.

> It is very important that the public have access to news and information provided by local broadcast signals. My local broadcasters played a very important role in disseminating safety information to the residents of South Carolina before and after Hurricane Hugo came ashore. Broadcast stations also proved to be a vital source of information to the residents of Northern California after the recent earthquake. But, we all know that we depend greatly on broadcast television day in and day out. Citizens regularly rely on their local broadcast stations to keep them informed about issues of importance to their local community, such as candidates' positions on issues in local elections, local news and public affairs issues.[38]

Must-carry requirements were reinstated in the 1992 Cable Television Consumer Protection and Competition Act of 1992, Sections 4 and 5. The Joint Explanatory Statement of the Committee of Conference included the following policy conclusions:

> There is a substantial governmental interest in ensuring the continuation of locally originated television broadcasting; Television stations are an important source of local programming, especially for local news and public affairs programming; Television broadcasting is especially important for those who cannot afford to pay for video programming; Over the past decade, the market share of cable television has increased, while that of television broadcasting has decreased . . . [c]able television and television broadcasting increasingly compete for advertising, and more advertising is aired on cable television.[39]
>
> The Federal Government also has a compelling interest in having cable systems carry the signals of local commercial televisions stations because . . . [carriage] promotes localism and provides a significant source of news, public affairs, and educational programming. . . .[40]

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[38] Hearing before the Subcommittee on Communications of the Committee on Commerce, Science, and Transportation, U.S. Senate, One Hundred First Congress, First Session on Cable Carriage of Local Broadxcast [sic] Signals, October 25, 1989, p. 4.

[39] *Conference Report,* p. 50.

[40] *Conference Report,* p. 54.

> The Federal Government has a substantial interest in having cable systems carry the signals of local commercial television stations because the carriage of such signals is necessary to serve the goals contained in section 307(b) of this Act of providing a fair, efficient, and equitable distribution of broadcast services. A primary objective and benefit of our Nation's system of regulation of television broadcasting is the local origination of programming. There is a substantial governmental interest in ensuring its continuation.[41]

Exclusivity Rules

Other regulations, related to "must-carry," have been imposed to protect local broadcasters. For example, "network exclusivity"(non-duplication) rules require cable systems in major markets to black-out an imported distant signal offering the same network program as the local network affiliate. Also, the Commission has implemented a "syndication exclusivity" rule to protect local stations. Under this policy, cable systems in large markets are not permitted to carry distant signals transmitting programs for which a local station has acquired exclusive exhibition rights. To protect these local rights, the Commission has enacted a rule requiring cable systems with more than 1000 subscribers to delete the programs of duplicating distant stations under certain circumstances.[42]

The Commission announced new syndication exclusivity rules and expanded the network exclusivity rules in 1988.

Synopsis

The policy tradeoff posed by satellite DARS is by no means a novel one. Federal regulation of broadcasting has confronted this tradeoff repeatedly virtually from its inception. By now, it should almost go without saying that, *if* the goal of having

41 *Conference Report,* pp. 56-57.

42 See 47 C.F.R. § 76.92.

local, community-oriented broadcast services were not important and regulation were to reverse its historical commitment to local service, more national service could easily be provided. DARS proponents have marshaled all the familiar arguments on behalf of the advantages of such service. What has always been equally clear is that these potential benefits come only at a cost in terms of local service.

Through the years the effect, if not the intent, of many FCC decisions has been to reduce the amount of local programming actually supplied to listeners. This result has ironically been, in part, the consequence of the Commission's efforts to expand the number of local stations. As we explain in the section which follows, increased station numbers have resulted in increased competition. That competition has naturally expanded the diversity of program formats available to listeners, but has compelled significant economizing on program expenditures, including expenditures on locally-originated programs.

Economic Analysis

Competition for Audience

From an economic standpoint, a key differentiating characteristic of the commercial radio broadcasting industry concerns the nature of its product. The primary product commercial radio stations sell (*qua* broadcast stations) is not programming. Stations earn revenue by transmitting programs over the airwaves to listeners who literally "pay" attention.[43] Listener attention is sold in the form of commercial availabilities/ minutes to advertisers, who use this time to tout the availability and performance characteristics of their products and services (*i.e.,* to generate increased demand and sales). Programming is thus a kind of factor payment, that is, the economic good that stations trade or barter with consumers in exchange for their attention. When people discuss competitive rivalry amongst the radio or television stations in a particular geographic market or the major television networks or between television and cable, the focus is usually on *competition for audiences.* Thus, competitive rankings are usually cast in terms of shares of audience rather than advertising market shares. Most electronic media outlets operate as price takers in markets for advertising.

This focus on competition for audience is a simple and fundamental fact of radio broadcast industry operations, but one which satellite DARS proponents have managed to obfuscate in their discussion of the potential competitive impact of satellite DARS on commercial radio broadcasting.[44] Their claim is, in part, that satellite DARS will have little impact on commercial radio because DARS will either not be competing for advertising sales (if supported on a subscription basis), or competing only for sales of national advertising while a substantial proportion of the advertising revenues of local commercial radio stations are derived from sales to

[43] As virtually all of the radio broadcasters with whom we spoke observed, they are in the business of selling "ears" to advertisers.

[44] *See* InContext, Inc., *Satellite Radio* (August 1994).

local advertisers. Since satellite DARS operators will either not be selling avails or only selling avails to national advertisers, the effect on radio will allegedly be minimal. This conveniently, but mistakenly overlooks that satellite DARS will most definitely be competing for *listeners* and, unlike the digital audio service provided by some cable systems, will be competing for them during commutation time periods when terrestrial radio listenership peaks as well as during other periods of the day.

Competitive Impacts

Satellite DARS can be modeled as a service which will reduce the potential audience size of commercial radio broadcasters because people who purchase satellite DARS receivers and program services are generally likely to consume them rather than commercial radio broadcasts and thus be more difficult to tap. Alternatively, it can be modeled as a service which will reduce actual audience sizes of commercial radio broadcasters *directly* by the division/diversion of audience amongst a larger number of competing program services. Regardless of which way the competitive impact of the new service is analyzed, the fundamental point remains the same — the implementation of satellite DARS implies greater competition for audiences. To the extent that greater competition for audience reduces the size of the audiences commercial radio broadcast operations actually produce (either by decreasing the size of the potential audience or through greater fragmentation of audience), the revenues of commercial broadcast stations will be reduced, *ceteris paribus*. This result occurs regardless of whether satellite DARS is supported by advertising or subscription fees, or what type of advertising avails it supplies.

This is not to suggest that, were satellite DARS capable of offering national advertisers a significantly more transactionally convenient method of targeting specific audiences on a national basis, much as the cable industry is now attempting to do in both local and national advertising markets, that would not imply an even larger negative impact. The point is that, for purposes of analysis, audience impacts are a primary driver. Smaller audiences translate into reduced sales of advertisi' to *both* local and national advertisers, notwithstanding satellite DARS suppliers' focus on subscriptions or national advertisers for support.

Just as satellite DARS proponents have sought to minimize the competitive interface between satellite DARS and terrestrial radio in the markets for advertising sales, they have also sought to minimize the likely impact of satellite DARS on terrestrial radio listenership. Reading their advocacy material, one might be led to draw the conclusion that satellite DARS will be supported primarily by advertisers who do not currently advertise, and consumed by listeners who do not currently listen or will listen more than they currently do. To paraphrase H.L. Mencken's usual response to his critics, "they could be right," but there are a variety of considerations that suggest that they are likely to be wrong, not least the strong opposition to satellite DARS by radio broadcasters who plainly perceive a significant competitive threat. If there is no threat, how then account for the behavior of perceived competitors? The simplest and best explanation is that broadcasters can be relied upon to know one when they see one, and that there likely will be a competitive impact.

Industry information sources report very high levels of radio listening among the population. The Radio Advertising Bureau reports that three-out-of-four persons over the age of 12 listen to radio every day and that the average adult listens to more than 21 hours of radio a week.[45] Adults spend an average of three hours and 20 minutes listening to radio each day, and more than 95 percent of persons over the age of 12 listen to the radio in a given week.[46] Four-out-of-five adults listen to radio in their cars, and a plurality of listening takes place in listeners' vehicles.[47] These figures understate listening by teenagers and young adults who comprise an

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45 *RADAR 50*, Fall 1994 ©Copyright Statistical Research, Inc.

46 *Ibid.*

47 *Ibid.* 41 percent of adults' listening is in their cars, 38 percent at home and the balance (21 percent) in other places including at-work listening.

important advertising subpopulation.[48] Surveys also indicate large amounts of television consumption.[49] Given the limited number of hours in a day and the percentage of the population who currently consume radio and television services (which are called "mass" media for a reason), the question naturally arises as to where any additional listening is going to come from.[50] Is it reasonable or plausible to assume that significant *incremental* audiences remain untapped? We think not.

This is not to suggest that there are no possible sources of demand for satellite DARS apart from the current radio listenership; only that it unrealistic to anticipate that this service can make economic sense (either as a private investment or an economically rational allocation of spectrum) if it does not draw some significant support from current audience. Since investors in satellite DARS are not unintelligent, they presumably anticipate some minimal degree of success in attracting customers, notwithstanding the thrust of their advocacy, but even a minimal degree of success in attracting customers necessarily implies competitive impact on terrestrial radio broadcasting.

It is a commonplace of the economic analysis of broadcasting that hours of consumption (*viz.*, listening, viewing) provide only a poor proxy of consumers' actual economic valuation of programming.[51] While we would question the

48 Unlike other media, younger people listen to more radio than their elders.

49 One recent survey conducted by the NDP Group, Inc., and reported in *The New York Times* ("Time Flies, but Where Does It Go?," September 6, 1995, C-1), disclosed that the average adult spends 154 minutes daily watching TV and videos.

50 Studies submitted by the NAB in this proceeding suggest that satellite DARS will draw significant listenership from broadcast radio and, as a consequence, exert a significant adverse impact on local radio stations. *See* NAB, "Estimating the Audience Diversion from Broadcast Radio by the Introduction of Satellite Digital Audio Radio Service," July 1995; Ted Carlin, "Estimating the Impact of Satellite Digital Audio Radio Service on the Existing Radio Market by Product Analogy and Consumer Demand Analysis," August 1995; and Kagan Media Appraisals, Inc., *The Economic Impact of Satellite-Delivered Radio on Local Radio Stations*, August 31, 1995.

51 *See* R.G. Noll, M.J. Peck and J.J. McGowan, *Economic Aspects of Television* (continued...)

magnitude of the net value of format diversity benefits satellite DARS proponer claim, given the format diversity that currently exists in radio and the diversity benefits of local community service that may be at risk, we would certainly agree that a listener who is able to receive more preferred programming (say, a jazz format in place of a contemporary music format) benefits, by definition, from being able to exercise that option. That benefit will, however, be very imperfectly gauged by the *increment* in time spent listening, and, we suspect, will be much more accurately gauged by the listener's willingness to pay.

We very much doubt that satellite DARS suppliers would be willing to charge consumers (or advertisers) only in proportion to actual *increments* in total listening time attributable to their service. That is because incremental listening is likely to constitute only a small proportion of total listening time for the new service. If satellite DARS suppliers truly believed that their service were only going to affect terrestrial radio listenership minimally, that is, that their audiences would be largely incremental, they ought to be willing to charge only for incremental listening. The reality is more likely to be that many new satellite DARS listeners are likely to be current terrestrial radio listeners, and will benefit in substantial part by substituting the new service for time formerly spent listening to terrestrial radio.

Economic Impact on Terrestrial Radio Broadcasting

Satellite DARS proponents claim that commercial radio broadcasting is capable of withstanding competition from satellite DARS.[52] To support this claim they rely, in part, on aggregated, industrywide statistics indicating that radio station sales revenues have risen over time. These statistics are, however, misleadingly stated in

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[51] (...continued)
Regulation (Washington, D.C.: Brookings Institute, 1973); and Bruce M. Owen and Steven S. Wildman, *Video Economics* (Harvard University Press: Cambridge, Mass., 1992).

[52] *See* InContext, Inc., *op. cit.*

nominal terms (*i.e.,* not corrected for price inflation) and, as noted, presented on an aggregate basis. When this type of data is corrected for inflation and adjusted to reflect the very large increases in competing radio station numbers through time, the rosy picture tends to disappear.[53] Indeed, satellite DARS proponents appear to be guilty of the logical fallacy of composition in attempting to argue that since the radio industry in aggregate has thrived, the competitive impact of satellite DARS will be minimal.

What is characteristic of the whole is, of course, not necessarily and, in this case, not actually true of the parts. Certainly some stations do well, but these stations appear to be exceptions to the rule — most stations eke out an existence (what firms, of course, generally do under conditions of effective competition) and many stations are highly marginal operations barely and sometimes not surviving under their existing ownership.[54]

Radio stations vary widely in terms of their economic performance. These variations are closely attributable to differences in the audience-producing capabilities of different stations.[55] The potential audience a station can tap depends on the

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[53] *See* NAB, "The Truth About Satellite Radio" (undated).

[54] According to the NAB's last census of commercial radio stations (*1992 Radio Financial Report*), 58.6 percent of the responding stations report losses. For 1991, half of all AM full-time stand-alone stations lost more than $19,000, half of all FM stand-alone stations lost more than $10,367, and half of all AM/FM combos lost more than $15,978.

[55] In his famous treatise on the use and regulation of the radio spectrum, Harvey J. Levin [*The Invisible Resource* (Resources for the Future, Inc. by the Johns Hopkins Press, Baltimore and London, 1971, p. 358] notes that:

> The American broadcaster operates in a market heavily influenced by regulatory policies of the FCC. Managerial ingenuity in program innovation, production, distribution, and financing operates within a range delimited by external conditions imposed largely by the Commission through its licensing-allocation function. Limitations are placed on the broadcaster's permissible signal power, and length of his broadcast day, the location of his spectrum and his base of operations, and the maximum number of rivals against whom he must compete. . . . There is considerable evidence that standard broadcasting has in general behaved as a competitive industry should, both in regard to the

(continued...)

population of the location it is licensed to serve, the type of signal it is licensed to transmit, the number of hours a day it is licensed to operate, the height of its broadcast antenna, the power with which it is authorized to transmit its signal, and other such factors. A station's actual audience and revenues, in addition, depend on the extent of the competition it faces from other radio stations, television stations and cable services, and will also be significantly affected by the vitality of the local economy it serves.

As noted previously, the Commission has created a variety of different classes of stations. Some assignments have involved authorization to use high power and operate on a full-time basis with the expectation that the station would serve a large area; others have involved regional spectrum assignments designed to facilitate service to substantial metropolitan areas, or local allocations to afford specialized services to particular communities both within and outside of major metropolitan areas. Historically, commercial AM and FM stations have been distributed

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55 (...continued)
secular behavior of its rates of return, aggregate investment, and profit margins, and in the patter of new station entry over time.

Levin (p. 366) observes that:

> Because the initial impact of broadcast licensing policies is on the licensee's potential audience and thus on his maximum time sales revenue, one simple way to ascertain the existence of any economic impact of licensing is to analyze variations in average time sales by station class and community size.

Levin tested the thesis that FCC licensing policies influence a station's relative profitability. He found that various measures of time sales and profitability varied significantly for the period 1939 through 1960 among the eight classes of stations licensed by the FCC, that there were significant variations among the eight classes of stations irrespective of community size, and significant variations among nine community sizes irrespective of station class. His statistical tests also suggested that station class, hours of operation, and power may have been more important factors than community size in explaining variations in times sales and profit margins.

Levin (p. 367) summarizes his findings as follows:

> The data do not rule out the possibility that a radio broadcaster's economic opportunities may be limited by conditions created by the licensing authority and normally beyond his control. The facts are also consistent with the hypothesis that broadcast licensing has differential economic effects.

geographically according to a set of allocational criteria which reflect the FCC's strong commitment to the provision of broadcast services through local outlets. While the Commission has not been wholly consistent in its assessment of priorities, it has usually sought to provide all persons in the United States with at least one service, each community with at least one local station, all persons with multiple services from which they can make a selection, and additional local stations to individual communities depending on their size.

Through the years these policy objectives of the FCC have been largely achieved. Today a very large number of signals provide service[56] but, as noted, these stations are by no means homogeneous in their operating circumstances. Those stations blessed with advantageous economic and technical properties tend to exhibit stronger performance. That superior performance may, of course, not actually be reflected in return on investment to the extent that superior productivity is capitalized. To the extent that rents attributable to superior productivity *are* fully capitalized, superior performance is required simply to produce a "normal" economic rate of return for a broadcast property with advantageous features.

With a highly diverse population of stations, particularly one skewed toward stations with relatively inferior performance properties, aggregated or even average statistics will tend to mislead. They will tend to overstate the economic circumstances of the median/most typical stations. The performance of atypical stations, which occur relatively infrequently in the total population of stations given the government's station allocation plan, misleads as to the typical circumstances in which a great many stations find themselves.

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[56] In analyses prepared for submission in this proceeding, the Research and Planning Department of the NAB has utilized Arbitron data to evaluate the number and type of radio stations available in different markets. These analyses disclose that the number of stations and different formats available vary directly with market size, but that even in the smallest markets 15 different formats are typically available. *See* "An Analysis of the Number of Radio Stations in Arbitron Markets," "An Analysis of the Number of Formats Offered in Arbitron Markets," and "1995 Country Radio Listening Study," September 15, 1995.

Adaptation to Change

Satellite DARS proponents have sought to make much of commercial radio's "adaptability" and its ability to survive in the face of both television and a huge increase in the number of radio stations, not to mention other adverse impacts. Radio certainly *has* proven itself to be a highly adaptable communications medium that has effectively remade itself a number of different times over its history. For purposes of public policy analysis, particularly given the primacy of the local service objective in broadcasting down through the years, it is important to consider carefully what the specific nature of the adaptations radio has been compelled to make in response to different forms of increased competition.

Those competitive adaptations have *uniformly* consisted in attempts to economize on station operating costs, *particularly program costs*. When television came along, its competitive advantage was for those kinds of programs which the radio networks had previously provided. Whereas families had formerly gathered around their receiving sets to listen to Jack Benny, television enabled them to watch as well as listen. Radio shifted its focus towards those situations where consumers might attach little additional value to the ability to receive pictures as well as sound (*viz.*, commuters driving to and from their workplaces, people at work, *etc.*). Radio became primarily a purveyor of recorded music, which was generally of high quality and available nonexclusively at comparatively modest expense.[57]

As the number of stations increased, stations increasingly found it advantageous to specialize in terms of program format (initially music, later other types of programming) to establish a brand identity with consumers and distinguish themselves from their increasingly numerous rivals. Competitively driven duplication of formats led, in turn, to proliferation of formats, with many different types of programming and many different "flavors" of particular format types becoming available.

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[57] Obviously recorded music is produced primarily for direct purchase by consumers.

The advent of economical communications satellite service marked another important change in programming. To economize on program costs, stations not only relied increasingly on recorded music as a program staple, but also increasingly began to rely on packaged program services delivered by satellite to fill out their broadcast schedules. As competition intensified, and that intensification, of course, tended to vary both in terms of individual markets and individual stations, station operators naturally sought to reduce their costs by economizing on the things they could economize on — their variable inputs, one of the most significant of which was programming. National or regional programming delivered by satellite provided a very effective means of sharing program costs with other broadcasters and filling air time. It also afforded stations with an economical means to fill out program schedules during periods when local programming was no longer economically feasible. Just as recorded music provided a means of sharing costs with consumers of recorded music, syndicated or network programming via satellite affords a means of sharing other program costs (*e.g.*, disc jockeys or on-air personalities) with other stations and satisfying stations' needs for high-quality program material economically.

Increased competition has similarly stimulated greater joint ownership and joint operation of stations. Such arrangements afford station operators with a means of economizing on various administrative and operational expenses by enabling them to exploit economies of scale/cost sharing.

There is thus a rather striking irony in the FCC's efforts to promote competition and local service in radio broadcasting. As the Commission has continually sought to expand the number of communities with their own local stations and thereby — plus other efforts — to expand competition, a very large number of communities now have local broadcast outlets. It is now the case that even in relatively sparsely populated areas, substantial numbers of signals are receivable and there is a considerable diversity of program formats available. The irony is that the FCC's efforts in expanding the number of competing stations have begun to prove counterproductive, at least in terms of the amount of local, community-oriented programming. As stations have proliferated and audiences have fragmented, stations have been under greater and greater pressure to economize, often simply to survive. That pressure has translated into reductions in staff and in locally originated programming. So we increasingly confront the ironical situation of an extensive system of local broadcast distribution outlets, created to promote the creation and distribution of locally-oriented programming, actually transmitting ever growing amounts of non-local programming under threat of competitive survival.

Synopsis

Proponents of satellite DARS focus on potential public interest benefits of greater format diversity. In assessing the magnitude of the net benefits associated with such diversity, the Commission obviously needs to assess how much format diversity there is now and the extent (if any) of the likely increment to format diversity from satellite DARS.[58] Such an assessment should presumably be based on analysis of what specific formats are likely to actually be made available in the event, and not simply on what proponents simply say they will do in pursuit of a license. But this is not the end of the story. There is another type of diversity benefit to be considered, the loss of which one would suppose the Commission would attach significant weight given its historical commitment to community-oriented broadcasting.

There have, to be sure, been significant benefits from increased competition in radio broadcasting, but these benefits have not come without cost, particularly in terms of the Commission's local service objectives. Competition has compelled cost economizing, and cost economizing has necessarily entailed a reduction in the amount of

[58] The previously-cited NAB analyses of competing station numbers and format availability suggest that substantial program diversity in terms of format availability already exists. Evidence submitted by the NAB in this proceeding also indicates that there already exist a large number of foreign language stations. There is, of course, a very large amount of diversity in terms of local broadcast stations offering services customized to the individual needs of a very large number of local communities across the nation.

locally produced, community-oriented programming. Satellite DARS represents additional competition for local broadcasters. It will, to the extent that it succeeds, compel additional economizing efforts by local broadcasters. Those efforts will likely take the form of additional reliance upon, *inter alia*, satellite-delivered programming. We could well approach a situation where we, in essence, have two satellite distribution systems for radio broadcast programming — one which delivers geographically undifferentiated programming directly to consumers and the other which delivers similar programming indirectly to consumers via local broadcast outlets. The logic of competition appears almost to compel that result.

The question then is "whither localism." What is the value of what we have lost if there are further significant reductions in the amount of community-oriented programming? That is a loss that is not easily quantified, but the fact that it is difficult to quantify does not make the loss any less real. And for purposes of an enlightening cost/benefit analysis, it is a cost that needs to be part of the Commission's calculus. The Commission may well decide that the benefits of satellite DARS, suitably conditioned, are worth any costs in terms of *losses in diversity* from the degradation of local radio service. In making that decision, it should not labor under the delusion that there are no such costs.

Case Studies

Morgan City, Louisiana

Laconia-Franklin, New Hampshire

Enid, Oklahoma

Kelso-Longview, Washington

Hanford-Coalinga, California

Coudersport, Pennsylvania

Morgan City, Louisiana
Interviews

Dennis Miller
General Manager
KFXY-FM

Emile Babin
Executive Director
East St. Mary Chamber of Commerce

Paul Cook
Owner/General Manager
KQKI-FM

Morgan City, Louisiana

The Market

Morgan City is a nearly two-hour drive south and west from New Orleans. Set at the mouth of the Atchafalaya River with easy access to the Gulf of Mexico, the city has a population of 18,000 down from 30,000 in the early 1980s at the peak of the oil boom. Traditionally dependent on shrimp fishing, lumber mills and the oil industry, the region today still relies on oil and also on shipbuilding. It has been undergoing a slow transformation to a more broadly-based economy, focusing on retailing, service industries and tourism. Tulane University recently opened a cancer research facility in the area.

Dennis Miller, general manager of KFXY-FM, described the advertising base in the community:

> 80 percent of our advertising base is local retailers within the parish. At one point, it was probably a fifty-fifty split with agencies selling national advertising, but now agencies are concentrating in the larger markets which hurts us badly. We are talking abut the Coca Colas, the big supermarket chains, the large companies that used to pour some money into this area. Right now, while the 20 percent we still have is important, we're forced to depend on the local businesses. The majority of our advertisers are basically retailers . . . banks, supermarkets, clothing stores, video game rooms, laundromats, places like that. We deal a lot with mom-and-pop operations. We sell advertising at $8 or $10 a unit. We have to sell a lot of units to keep our heads above water each month. It's a hustle every day. We are struggling to make our mark. The market has really been hit hard.

"We sell advertising at $8 or $10 a unit. We have to sell a lot of units to keep our heads above water each month. It's a hustle every day. We are struggling to make our mark."

From a local business perspective, the trends are not all positive. Emile Babin, Executive Director of the East St. Mary Chamber of Commerce, explained he was a believer in open markets, but that:

> We are getting ourselves into a situation of large, mega-retailers. The Wal-Mart syndrome, the K-Mart syndrome, the big, big guys. My fear in all of this is in the next 10 years you are going to have about 10 national conglomerates that are going to have control over the local retail market. The biggest problem that we have right now is the breakdown of the family unit. The same thing can relate to the local entrepreneur. The country was built on the 'mom-and-pop' operations; they're the links in the local communities that together make the strength of the nation.

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While there are four radio stations licensed to St. Mary Parish (one of which went off the air during Hurricane Andrew and is still dark), a total of 23 signals is measured by Arbitron and includes a wide range of formats.

The Role of Local Radio in the Community

The local radio stations in Morgan City pride themselves on a commitment to local service. However, they are stretched thin. For example, Dennis Miller said:

> We have three full-timers; three part-timers. One of them is the program director, one of them is the engineer. Everybody wears a multitude of hats. I'm not only the general manager and owner, I'm also the sports director and sales manager. It gives me a handle on what's going on.

Paul Cook, the owner and general manager of KQKI-FM, added:

> I am especially proud of our news. I've got a guy who's been with me 17 out of the 18 1/2 years. He's my news guy, he's the guy I really depend on. Ernest covers the parish council meetings and all the various city council meetings. We do a news block from 7:25 to 7:30, local news. We pick up Louisiana network from 7:30 to 7:35, local news from 7:35 to 7:40. We do local news again at 8:02 or so to about 8:15. We do it again at noon. We do it again at 5:00. Ernest starts his day at about 6:00 in morning and ends at about 11:00 at night. His grammar is terrible, but he understands the politics of the area probably better than a lot of politicians. If there is a news

> conference called, he goes to it. He's a one-man news department, and we probably do as much as the newspaper.

The stations also manage to cover a wide range of local events. Miller provided some examples:

> 98 percent of what we do is local. Who hit the home run; what gal made a great play in the volleyball game; it's all local stuff. We have seven high schools in our market and I cover each one of them. Last year, we did 100 broadcasts at high school events. We do various non-high-school events such as Dixie Youth Baseball and AAU basketball. In fact, we have a couple of teams this year going to the nationals, and we follow them all the way to the nationals.
>
> Take baseball news for example. There are so many tournaments going on right now. I've got people who either have kids on the team or maybe some of the people I might have taught who are now parents and they will call me with scores. We are the only station in the entire parish that covers sports. No other station covers it. The other radio station in town covers local news like we do. The third radio station covers nothing local. Nothing. They just play music. That's all they do. And it's fed by satellite out of Houston.

"We are the only station in the entire parish that covers sports. . . . The other radio station in town covers local news like we do. The third radio station covers nothing local."

Cook elaborated:

> We do things the old-fashioned way. We really do. Most stations now, when they do a remote broadcast, they go with a cellular phone and they say, 'Here we are. We're having a great time.' We still take the DJ and do the show. We find that doing that gives us a better identity in the community. We also do the telephone remote, but if you look at the results, from a telephone remote and a full remote, there's a dramatic difference for the retailer. There's a lot more interaction with a full remote. And we don't sell as many of the telephone remotes even though they are a lot less expensive. We do at least four full remotes a month, but that requires having the staff to do them, usually a DJ and a sales person at each location.

Miller indicated that the community responds to this local commitment:

"We did a health fair for our hospital here in town. . . . They were afraid that no one would show up, but 5,000 people went through the door. It was unbelievable."

> We did a health fair for our hospital here in town, which, by the way, is the largest hospital in the parish. Free blood pressure tests, glaucoma tests; a bunch of things that people here need, but normally can't afford. We covered it free of charge — four hours. This was the first year that they held it at the city auditorium. They were afraid that no one would show up, but 5,000 people went through the door. It was unbelievable.

Radio also provides outlets for political discourse. Cook gave an example:

"Before elections, we have forums. . . . Our audience loves it because they get to ask about what really concerns them. And the candidates love it because it gives them real exposure with people listening to what they have to say."

> Before elections, we have forums. We just did one last fall for the City of Patterson. And we'll do it this coming fall for all of the local parish offices. If we've got four candidates, we'll sit them down and I'll let each candidate give a two-minute opening statement. Then I'll ask some questions to get things started and let each candidate respond in turn. Finally, we go to questions called in by our listeners. It's a real interactive event. Our audience loves it because they get to ask about what really concerns them. And the candidates love it because it gives them real exposure with people listening to what they have to say.

Local radio becomes especially important during emergencies. Miller and Cook discussed the role their two stations play in emergency situations. First Miller:

"[W]e're 'Hurricane Alley.' We stay on the air from the minute that we get a warning. . . . We go into a state of emergency here with the civil defense. . . . We'll do evacuation notices and provide other important information. We become a community nerve center . . . when that happens, everybody here is off payroll and on public service time. . . . To me, that's the heart of what a local radio station is about."

> This is hurricane season, and we get plenty of them over the years. Take Hurricane Andrew. It devastated this parish. You might say we're 'Hurricane Alley.' We stay on the air from the minute that we get a warning, and the storm could be two or three hours away. We go into a state of emergency here with the civil defense. Jimmy Bernauer is the head of civil defense here in our parish. He is also the mayor of the City of Patterson. He'll come up here and just set up shop. We'll do evacuation notices and provide other important information. We become a community nerve center. And, by the way, when that happens, everybody here is off payroll and on public service time. They all understand that when they come to work here. When we are in a state of emergency, they volunteer their time to the community. I pay them for their regular eight-hour day. But if we are on the air for the whole 24 hours, they'll stay here. To me, that's the heart of what a local radio station is about. It is not about making money although we need to make money as a commercial radio